

**Roberto, Joseph**

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**From:** Godsey, Cindi  
**Sent:** Wednesday, September 09, 2015 2:30 PM  
**Subject:** FW: ICMJ's Prospecting & Mining Journal

In case you are interested.

*Cindi*

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**From:** DeGering, Tracy  
**Sent:** Wednesday, September 09, 2015 2:23 PM  
**To:** Kenknight, Jeff; Mugleston, Darin; Werntz, James  
**Cc:** Lidgard, Michael; Godsey, Cindi; MacIntyre, Mark  
**Subject:** RE: ICMJ's Prospecting & Mining Journal

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FYI- We were able to obtain a copy of "AMRA Takes on USFS in Idaho" from the editor/publisher of ICMJ's Prospecting & Mining Journal:

Scott Harn  
Editor/Publisher

***ICMJ's Prospecting & Mining Journal***  
PO Box 2260, Aptos, CA 95001  
PHONE (831) 479-1500 • FAX (831) 479-4385  
[scott@icmj.com](mailto:scott@icmj.com)  
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AMRA Takes On USFS in Idaho (September 2015 issue; Vol. 85 No. 01)

## **AMRA Takes On USFS in Idaho**

by **Shannon Poe**

Last year, the American Mining Rights Association (AMRA) went to Idaho and dredged for two weeks on their claim on the South Fork of the Clearwater River in opposition to the EPA illegally demanding an National Pollution Discharge Elimination System (NPDES) Permit or face a \$37,500 per day fine. We were threatened with jail, fines of over a half a million dollars, and typical government intimidation to stop something the EPA had no right to require. We responded with the law—court cases that show they do not have authority to require a NPDES permit—and we did not back down. We have not heard from the EPA since last year.

The simple truth about suction dredging is there is no requirement to obtain a "pollutant discharge permit" as suction dredges do not pollute. In fact, they clean the waterways of 98% of the mercury and nearly 100% of the lead and other heavy trash in the rivers. They create healthy fish habitat by loosening the gravels fish love to live in and deeper pools where small fish can hide and live in cooler waters more conducive to growth. Study after study has been completed, mostly with taxpayer funds, and have conclusively proven suction dredging is not deleterious to fish and fish habitat. But, as we all know, political ideology seems to trump common sense and factual science when dealing with those who oppose suction dredging and small miners in general. Albert Einstein coined the phrase, "Doing something over and over again expecting a different result is the definition of insanity." It is insanity to keep spending millions of taxpayer dollars on studies that all show the same results.

If there is no addition of a pollutant, section 404 of the Clean Water Act does not apply. This was clarified by the “pot of soup” theory described in *South Florida Water Management District v. Miccosukee Tribe of Indians*. Supreme Court Justice Ruth Bader-Ginsberg quoted the above case in a 9-0 decision in *Los Angeles County Flood Control District v. Natural Resources Defense Council, Inc.*

Bader-Ginsberg put it like this, “[i]f one takes a ladle of soup from a pot, lifts it above the pot, and pours it back into the pot, one has not ‘added’ soup or anything else to the pot.”

Suction gold dredges do not pollute. They move gravels, after cleaning them, a short distance without adding anything to what was already within the waterway.

I arrived in Idaho on July 16, a 23 hour journey of 900 miles, a day after dredging season opened on the SF Clearwater. I was amazed to see about 20 miners already there and dredging on our claims and on their own claims, which had not seen a dredge since the EPA started their intimidation tactics several years ago. (Last year, there were only three dredges in the water, all AMRA members and staff.) Every one of the miners this year said they were there because AMRA showed them you can stand up to a tyrannical government and they wanted to support us.

We were prepared for the EPA if they showed up, but they never did. I was running my 6” dredge that was necked down to a 5” since Idaho restricts the nozzle size to five inches on this river. On my dredge with me was my buddy Brandon Rinehart, the same Brandon Rinehart whose federal preemption suction dredge case in California is now going to the California Supreme Court.

Brandon and I started in the center of the river in about 14” of water, just downstream from where I dredged last year, punched to bedrock about 5’ down and opened up our hole. We started working our way to the bank below the road and within 5 hours, hit the old river channel and started seeing gold in almost every bedrock crack. We had clear water, shallow ground and great gold—all was going perfectly. As our hole was being enlarged, fish soon showed up and were feeding constantly from near our nozzle each time we stirred up some food, and they were also off the back of the dredge waiting for some tiny morsel to go through the sluice. Each morning, the dredge hole had no less than 50 fish loving the cool, deep hole and added cover where previously there was none.

We dredged for six straight days and filled a few bottles with gold. On the seventh day, Brandon and I were underwater thinking about lunch and how we were going to move a huge boulder when we heard the “pahloop” sound of a rock being tossed in the water near us. We popped up and there were several of our mining buddies who were standing there, all talking at the same time with fervor. We managed to ascertain a Forest Service officer had arrived and was claiming we were a fire hazard and had to shut down. Yes, that was the claim.

We came out of the water and read the notice handed to us. It was called the “Hoot Owl” restriction and the officer stated we had to shut our dredges down at 1pm in the afternoon because it was an “off road activity” and posed a fire hazard.

How is a modern dredge, complete with the latest spark arresters situated 49 feet out in the middle of a 112-foot wide river a fire danger? Obviously we were dealing with an ideology and not any kind of common sense. The notice stated we could have a generator with the same type of engine in our camp as long as the ground was cleared for three feet around it, but we couldn’t have the same engine out in a river after 1pm. The notice was also obviously written for the loggers, timber cutters and firewood folks, but the USFS decided this also applied to the small miners dredging in the middle of the river.

We immediately shut down and drove to the county seat in Grangeville and met with the County Commissioners, and one in particular, Jim Chmelik, the County Commissioner who was on the bank of the river standing in support of AMRA last year along with Senator Sheryl Nuxoll of Idaho. We then called Senator Nuxoll and other Idaho Representatives, and then had a sit down with the Sheriff’s Department.

Sheriff Doug Giddings has long supported the miners and clearly understands the political ideology behind this push to shut down dredging. We spent 1.5 hours with the Sheriff’s department and were informed that if we continued to have problems with the USFS, to call them. We provided them with copies of the 2810 USFS regulations relating to mining and the laws surrounding the USFS authority. We then went public on our social media and unleashed the AMRA members and supporters to call the USFS and voice their displeasure over this absurd hypocrisy. We left messages with the USFS Supervisor that if they were going to ban dredges, they would be required to ban all of the jet boat tours and commercial entities on the Salmon River as well. They apparently had not considered this. We even drove to the USFS main office in Grangeville, but nobody in an supervisor capacity would speak with us. After hours of calls and meetings, we called the USFS back and managed to get someone to talk to us. He stated, “This notice does not apply to suction dredges and we apologize for the confusion. Now, would you please call off your dogs, my phone has been blowing up all morning.”

This is what can be accomplished when people stand together against ideology, make phone calls, and work together when they see something that is fundamentally wrong. We had thought this would end the harassment of the miners so we went back to the river, informed all the miners what the outcome was, and after many high fives and whoops, we started dredging again the next morning.

Brandon and I jumped in the water first thing the next morning and were in some really good color when again we heard the “pahloop” sound from someone tossing rocks to get our attention. We popped up and there were miners in their wetsuits talking all at one time again. What is it this time?

We were told there was a Forest Service geologist named Clint Hughes shutting down all suction dredging on the river for not having a Plan of Operations (aptly named POO) for suction dredging. Stunning was all that came to mind.

Dave, the miner who Mr. Hughes first approached downstream, told me Mr. Hughes told him when he stopped his dredge, “You guys found a way around the fire restrictions, but this is how we are going to get you out of the water now.”

We came out of the water and drove 400 yards back to camp. Mr. Hughes was standing in front of his USFS Jeep Compass and we immediately fired up the video camera. I proceeded to ask Mr. Hughes what his background and training was. He seemed quite proud, stating he had a Master’s degree in geology and he was the man who enforced all mining-related activities on this river. He clearly believed he was the smartest man on the river that day. I asked him what authority he had to require a Plan for suction dredging and he mumbled the 1897 law that formed the USFS. When pressed for exactly what regulation or law he believed he had which would require us to obtain a POO, he claimed it is the ESA or Endangered Species Act. He also stated this has been in place since 1990.

“So, this has been around for 25 years according to you, but you are just now going to enforce it?” I asked.

“Yes,” he replied.

I informed Mr. Hughes that I was the owner of the mining claim he was standing on and as a real property owner, as determined by the Supreme Court, I would like him to call the Sheriff to represent me in this criminal matter.

Mr. Hughes stated, “This isn’t a criminal matter. It is a civil matter.”

I asked Mr. Hughes if he was a federal agent of the USFS and he said yes. For clarification, I asked if he was telling us he was enforcing a federal regulatory issue in a federal capacity, yet telling us it is a civil matter. He again answered yes. Obviously, wherever Mr. Hughes obtained his Master’s degree, he didn’t learn the difference between civil and criminal matters. Again, I demanded he call the Sheriff’s department and he responded, “I don’t know how to use the radio.”

We can’t even make this stuff up folks—he really did say that. After getting him to confirm that he would not call the Sheriff, we sent one of the miners to Elk City and he called the Sheriff’s department who immediately dispatched Undersheriff Jim Gorges, whom Mike and I met with the day prior and another deputy.

Mr. Hughes was obviously shaken by our interaction and we are quite confident he assumed we were all missing teeth, long-haired, uneducated, backwoods miners who would immediately become submissive. That didn’t happen, and Mr. Hughes left our camp for 45 minutes to gather himself. When he returned, the Undersheriff Gorges and his deputy had just arrived. We briefed Gorges and his deputy of what had transpired and Gorges told Mr. Hughes, “These miners have come a long way to dredge their mining claims. They have valid Idaho dredge permits and I am sending them back into the water.”

We read in a local paper up there that the Forest Service decided not to pursue this issue with dredgers for the remainder of the season, but did state they are going to pursue the regulations to restrict the number of dredges which will be “allowed to dredge” next year on the South Fork of the Clearwater. We will see about that.

Off and on for the next three days I was going to Grangeville to speak to our attorney, friends, supporters, Senators, Congressmen, Congressional Committees in Washington, DC and the media. Because of the USFS, they materially interfered with my mining operation which cost me over five days out of the water. When you are averaging between one-half ounce to one ounce per day, it becomes costly. Brandon had to head home, but I continued to dredge. In the final days, I pulled out a nice amount of gold that would not fit in small bottles any longer.

To show just how generous miners are, consider this story, which also happened while we were in Idaho:

A dear friend to the mining community who is in his 70’s and lives in Elk City had been confined to his house because he did not have a vehicle. This man has spent tens of thousands of his own dollars—literally all of his money—fighting the EPA and DFG/DFW to be able to dredge his claims on the Red River, a tributary to the SF Clearwater. The miners on the river banded together, gathered up gold, money and sweat, and purchased this man a truck for him to go to his claims, to get firewood for the winter and to give him his freedom back. We proudly gave him his keys right before we left. There wasn’t a dry eye that night. This is what miners do; we take care of our own.

Ideology so strong in some, that it literally becomes a religion to them. Science is to be ignored, facts and to be made fun of. Truth is what they say it is and nothing else should even be considered.

At what point do you, the reader of this article decide we have an out of control government? When there is nothing left of small mining? Our current government is run by special interests and environmental groups who buy and sell politicians like used cars. America is supposed to be a Representative Republic where we elect politicians to “represent” us, not just groups who donate large sums of money to their re-election campaigns. We must all look at the NRA as the role model of true grass-roots movements to preserve rights. Think back a little while ago when the EPA was trying to ban lead bullets. What happened? The NRA launched a campaign and most of its members spoke out, loudly to the politicians in opposition and they killed that ridiculous proposal. We too must become a loud voice, so loud that it cannot be ignored.

For more information, including videos of this trip and the full interaction with Forest Service geologist Clint Hughes, visit AMRA online at [www.americanminingrights.com](http://www.americanminingrights.com)



*More of the gold recovered on this trip.*

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*Editor's Note: Congratulations are in order for Shannon and AMRA for a job well done.*

*On August 7, the Associated Press subsequently reported that the EPA is considering opening up the South Fork of the Clearwater for "limited" mining next year and "won't take action to stop dredge mining currently underway."*

*According to the Associated Press:*

Forest Service Supervisor Cheryl Probert said the agency is working through an environmental analysis process to authorize suction dredge mining that's already taking place, the *Lewiston Tribune* reported.

"The Forest Service is not going to take any physical action like pulling their dredges out of the water," Probert said. "Our emphasis is really on working through the environmental analysis process to be able to authorize, with mitigation and a plan of operation, suction dredge mining on the South Fork."


An appeals court decision and an Idaho permit established by the Environmental Protection Agency in 2013 created a process for dredge miners looking to operate in areas where protected fish live.

Threatened bull trout and steelhead live in South Fork. Notices of noncompliance were sent to area dredge miners, but they say their operations are authorized by the Mining Act of 1872 and permits from the Idaho Water Resources Board.

The forest service sent notices of noncompliance to the miners, which several did not accept.

"If they had the authority, they would have come back the next day with law enforcement officers, cited and arrested us—they didn't," said Shannon Poe, president of Coulterville, California-based American Mining Rights Association. Poe said he'd mined in the area last summer and threatened a lawsuit in response to a letter from the EPA.

"When you push back and have the law on your side, they have no defense," Poe said. The fear and intimidation tactics they use work on most people. They kept most suction dredge miners out of the water last year and this year."

*Probert may want "mitigation and a plan of operation" but we seriously doubt she's going to get it without a court ruling in her favor.* 

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**From:** DeGering, Tracy

**Sent:** Tuesday, September 08, 2015 1:43 PM

**To:** Kenknight, Jeff; Mugleston, Darin; Werntz, James

**Cc:** Lidgard, Michael; Godsey, Cindi; MacIntyre, Mark

**Subject:** ICMJ's Prospecting & Mining Journal

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FYI. Looks like a subscription is required, but it's published evidence (versus amateur video).  
Tracy

Main page: <http://www.icmj.com/>

Specific story: <http://www.icmj.com/article-notloggedin.php?id=3310>